

REMARKS

The undersigned has conducted a thorough review of the application and the FINAL action to understand the issues at hand. Accordingly, amendments to the claims are presented herein. In particular, by this amendment, claims 6, 9-20, 22, and 24 have been canceled. Claims 1, 2, 4, 5, 7, 8, 21, and 26 have been amended. Claims 1-5, 7, 8, 21, 23, and 24-26 remain in the application. Support for the amendments to the claims is identified herein below. No new matter has been added. This application has been carefully considered in connection with the Examiner's Action. Reconsideration, withdrawal of the final action, and allowance of the application, as amended, is respectfully requested.

Election by Original Presentation

In the Office Action, paragraph 2, the action states that “[n]ewly Amended claims 9-20 are directed to an invention that is independent or distinct from the invention originally claimed” and that “Claims 9-20 are withdrawn from consideration as being directed to a non-elected invention.” Applicant acknowledges this issue raised regarding the withdrawing of claims 9-20 from consideration. In response thereto, claims 9-20 have been cancelled herein.

Allowable Subject Matter

Claim 22 stands objected to as being dependent from a rejected base claim, but would be allowable if rewritten in independent form overcoming the claim objection, and including all of the limitations of the base claim and any intervening claims. Allowability of Claim 22 is noted with appreciation. In lieu of rewriting claim 22, claim 21 has been amended to include the limitations of claim 22. In addition, as noted herein below, claim 21 has further been amended to overcome the various other claim rejections and objections.

Accordingly, claim 21 is in prima facie condition for allowance. Claim 22 has been canceled.

Claim Objections

Claims 1, 4, 21, 22, and 24 have been objected to for a number of informalities. By this amendment, claim 22 has been canceled, rendering the objection thereof moot. By this amendment, the informalities have been corrected. For example, the phrase “operable for” has been changed to “configured to”; the phrase “enabling” has been changed to “to provide”; the phrase “operatively connected to” has been changed to “coupled to”; the phrases “so that”, “thereby”, and “for authorized access” have been changed to “to prevent” and “to enable”; the phrase “if” has been changed to “in response to”; and the phrase “to effect” has been changed to “to provide”. Accordingly, the objection to the claims is now believed overcome. Withdrawal of the objection to claims 1, 4, 21, and 24 is respectfully requested.

Rejection under 35 U.S.C. §101

Claims 1, 4, and 21 stand rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. This rejection is noted by the applicant. In response thereto, the claims have been amended to be clearly directed to statutory subject matter. For example, claim 1 now recites, in part, “a musicbox implemented via at least one selected from the group consisting of a specialized musicbox device, specialized musicbox devices, a computer and computers, said musicbox comprising:” and further in part, that “software stored in the musicbox and executable via the controller in the musicbox, wherein the software is configured to:” Support for the amendment to claim 1 can be found in the specification on at least page 4, paragraph [0012], lines 3-7; page 5, paragraph [0018], lines 2-9; page 7, paragraph [0023], lines 1-5; and page 26, paragraph [0041], line 6.

Claims 4 and 21 have been amended in a similar manner. Accordingly, the rejection is now believed overcome. Withdrawal of the rejection of claims 1, 4, and 21 under 35 U.S.C. §101 is respectfully requested.

Rejection under 35 U.S.C. §112

Claims 1, 4, and 21 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is noted by the applicant. In response thereto, the claims have been amended to be clearly point out and distinctly claim subject matter which applicant regards as the invention. For example, in claim 1, the phrase “enabling users of the software to manipulate the data files” has been amended to read “provide authorized musicboxes access to use the data files”. Accordingly, the rejection is now believed overcome. Withdrawal of the rejection of claims 1, 4, and 21 under 35 U.S.C. §112, second paragraph, is respectfully requested.

Claim 5 stands rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is noted by the applicant. In response thereto, the claim has been amended to be clearly point out and distinctly claim subject matter which applicant regards as the invention. The phrase “and/or” has been replaced by “at least one selected from the group consisting of audio data and visual data”. Accordingly, the rejection is now believed overcome. Withdrawal of the rejection of claim 5 under 35 U.S.C. §112, second paragraph, is respectfully requested.

Rejection under 35 U.S.C. §102

Claims 1, 3-7, 21, and 23-26 stand rejected under 35 U.S.C. § 102(a) as being anticipated by Dukyun Nam et al. *Distributed Document Sharing System*. June 2001 (hereinafter **Nam et al.**). With respect to claims 6 and 24, the same have been canceled herein, thus rendering the rejection thereof now moot. With respect to claims 1, 4, and 21, Applicant traverses this rejection for at least the following reasons.

Claim 21 has been amended to include the allowable subject matter of claim 22 (now canceled). Accordingly, claim 21 is in prima facie condition for allowance. Dependent claim 23 depends from and further limits independent claim 21 and therefore is allowable as well. Accordingly, the 35 U.S.C. § 102(a) rejection thereof has now been overcome.

With respect to Claim 1, as amended herein, Claim 1 now recites limitations similar to those of claim 22 (now canceled) and is thus believed in prima facie condition for allowance, for reasons similar to those in connection with the allowability of the subject matter of claim 22. Accordingly, claim 1 is believed in prima facie condition for allowance. Dependent claims 3 and 25 depend from and further limits independent claim 1 and therefore are allowable as well. Accordingly, the 35 U.S.C. § 102(a) rejection thereof has now been overcome.

With respect to Claim 4, as amended herein, Claim 4 now recites limitations similar to those of claim 22 (now canceled) and is thus believed in prima facie condition for allowance, for reasons similar to those in connection with the allowability of the subject matter of claim 22. Accordingly, claim 4 is believed in prima facie condition for allowance. Dependent claims 5, 7 and 26 depend from and further limits independent claim 4 and therefore are allowable as well. Accordingly, the 35 U.S.C. § 102(a) rejection thereof has now been overcome.

Rejection under 35 U.S.C. §103

Claims 2 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Dukyun Nam et al. *Distributed Document Sharing System*. June 2001 (hereinafter **Nam et al.**) in view of Pearson (U.S. Pub. No. 2003/0028610 A1). Applicant traverses this rejection for at least the following reason.

Dependent claim 2 depends from and further limits allowable independent claim 1 and therefore is allowable as well. Accordingly, the 35 U.S.C. § 103(a) rejection thereof has now been overcome.

Dependent claim 8 depends from and further limits allowable independent claim 4 and therefore is allowable as well. Accordingly, the 35 U.S.C. § 103(a) rejection thereof has now been overcome.

Conclusion

Except as indicated herein, the claims were not amended in order to address issues of patentability and Applicants respectfully reserve all rights they may have under the Doctrine of Equivalents. Applicants furthermore reserve their right to reintroduce subject matter deleted herein at a later time during the prosecution of this application or a continuation application.

It is clear from all of the foregoing that independent claims 1, 4 and 21 are in condition for allowance. Dependent claims 2-3 and 25 depend from and further limit independent claim 1 and therefore are allowable as well. Dependent claims 5, 7-8, and 26 depend from and further limit independent claim 4 and therefore are allowable as well.

Appl. No. 10/006,466
Response to Office Action of August 8, 2006

PATENT
Docket No. US018178
Customer No. 000024737

Dependent claim 23 depends from and further limits independent claim 21 and therefore is allowable as well. The amendments herein are fully supported by the original specification and drawings as discussed herein; therefore, no new matter is introduced.

Withdrawal of the final action and issuance of an early formal notice of allowance of claims 1-5, 7-8, 21, 23, 25 and 26 is requested.

Respectfully submitted,



Michael J. Balconi-Lamica
Registration No. 34,291

Dated: Oct. 6, 2006

21004 Lakeshore Dr. W.
Spicewood, Texas 78669
Telephone: 512-461-2624
Facsimile: 512-264-3687
File: US018178

a-32658.120